

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOEL BATTERSHELL,

Defendant.

Case No. CR04-5525FDB

ORDER GRANTING DEFENDANT'S
MOTION FOR RELEASE PENDING
APPEAL

Before the court is Defendant's motion for release pending appeal. At Defendant's sentencing, the court requested additional briefing from Plaintiff to support its position that detention was mandatory under 18 U.S.C. § 3143(b)(2). Having considered the motion, response and supplemental briefing, the court finds that the Mandatory Detention Act's "exceptional reasons" exception permitting release on bail pending appeal is applicable in this case. In particular, Defendant's lack of a violent history, the absence of an intent to commit violence, and the nature of Defendant's arguments on appeal (in particular, whether the warrant was deficient for failure to attach the photographs and lack of sufficient corroborating evidence), permit release on bail pending appeal.


ACCORDINGLY,

ORDER - 1

1 IT IS ORDERED:

2 (1) Defendant's motion for release pending appeal (Dkt.# 45) is **GRANTED**.

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4 DATED this 31st day of August, 2005.

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7 FRANKLIN D. BURGESS
8 UNITED STATES DISTRICT JUDGE
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